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10/615,856	07/08/2003	Jerry Michael Evoy	PQH03-032	9964

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EXAMINER	
CHERRY, STEPHEN J	

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2863	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/615,856	EVOY, JERRY MICHAEL	
	Examiner	Art Unit	
	Stephen J. Cherry	2863	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *30 August 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-36* is/are pending in the application.

4a) Of the above claim(s) *12,24 and 36* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-11, 13-23, and 25-35* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *7-8-2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-11, 13-23, and 25-35 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 5,506,955 to Chen et al.

Regarding claim 1, Chen discloses a method for dynamically monitoring resources, the method comprising the operations of:

(a) sending to a monitor request module a request of a user to monitor at least one specified resource ('955, col. 6, line 45, "start"); and

(b) creating at least one monitor to monitor the at least one specified resource, using the monitor request module ('955, col. 6, line 47, recording subsystem, 20), and creating at least one monitored object corresponding to the at least one specified resource, the at least one monitored object representing a state of the at least one specified resource and being maintained by the at least one monitor ('955, col. 6, line 49, recording file, and fig. 2, ref. 100).

Regarding claim 2, and in view of the rejection of claim 1 above, Chen discloses a method of claim 1 wherein the specified resource includes at least one of a file object,

a registry object, and a set of all processes that are active while the monitor is active ('955, col. 7, line 12).

Regarding claim 3, and in view of the rejection of claim 1 above, Chen discloses a method of claim 1 further comprising:

(c) providing to the user a link to the monitor ('955, fig. 12a, depicts several links to monitor in window).

Regarding claim 4, and in view of the rejection of claim 1 above, Chen discloses a method of claim 1 wherein, in operation (a), there are more than one specified resources, the specified resources being of the same type ('955, col. 7, line 12 discloses processes, systems and disks to monitor), the method further comprising:

(d) creating a set of first objects corresponding to the specified resources, the first objects representing states of the specified resources and being maintained by the monitor ('955, col. 13, line 1, and table 5, depicting objects).

Regarding claim 5, and in view of the rejection of claim 4 above, Chen discloses a method of claim 4 further comprising:

(e) updating the set of first objects upon receiving a notification of a change to at least one of the specified resources, using the monitor ('955, col. 17, line 12); and

(f) logging information related to the change ('955, table 5, "val_change").

Regarding claim 6, and in view of the rejection of claim 5 above, Chen discloses a method of claim 5 further comprising:

(g) creating a new object representing a current state of the specified resource having the change ('955, table 5, data value record); and

(h) comparing the new object to the corresponding first object representing a previous state of the specified resource to determine the change ('955, table 5, "val_change").

Regarding claim 7, and in view of the rejection of claim 1 above, Chen discloses a method of claim 1 wherein, in operation (a), there are more than one specified resources, the specified resources being of different types ('955, col. 7, line 10), and, in operation (b), there are more than one monitors created corresponding to the different types of specified resources ('955, col. 7, line 10, "one or more instances"), the method further comprising:

(d) creating different sets of first objects corresponding to the different types of specified resources, each of the different sets of first objects representing states of a corresponding type of specified resources and being maintained by a corresponding monitor ('955, col. 7, line 59).

Regarding claim 8, and in view of the rejection of claim 7 above, Chen discloses a method of claim 7 further comprising:

(e) providing to the user a link to each of the monitors ('955, col. 7, line 65, and fig. 12a).

Regarding claim 9, and in view of the rejection of claim 1 above, Chen discloses a method of claim 1 wherein the monitor is implemented as one of a COM object, a thread, and a process ('955, col. 7, line 12).

Regarding claim 10, and in view of the rejection of claim 1 above, Chen discloses a method of claim 1 wherein the monitor request module is initiated by a resource monitor service ('955, fig. 9, ref. 180).

Regarding claim 11, and in view of the rejection of claim 10 above, Chen discloses a method of claim 10 wherein, after being initiated, the monitor request module restarts all restartable monitors ('955, fig. 9, ref. 172).

Regarding claim 13, Chen discloses a article of manufacture comprising:
a machine-accessible medium including data that, when accessed by a machine, causes the machine to perform operations comprising:
(a) sending to a request module a request of a user to monitor at least one specified resource ('955, col. 6, line 45, "start"); and
(b) creating at least one monitor to monitor the specified resource, using the request module (955, col. 6, line 47, recording subsystem, 20), and creating at least one monitored object corresponding to the at least one specified resource, the at least one monitored object representing a state of the at least one specified resource and being maintained by the at least one monitor ('955, col. 6, line 49, recording file, and fig. 2, ref. 100).

Regarding claim 14, and in view of the rejection of claim 13 above, Chen discloses a article of manufacture of claim 13 wherein the specified resource includes at least one of a file object, a registry object, and a set of all processes that are active while the monitor is active ('955, col. 7, line 12).

Regarding claim 15, and in view of the rejection of claim 13 above, Chen discloses a article of manufacture of claim 13 wherein the operations further comprise:

(c) providing to the user a link to the monitor ('955, fig. 12a, depicts several links to monitor in window).

Regarding claim 16, and in view of the rejection of claim 13 above, Chen discloses a article of manufacture of claim 13 wherein, in operation (a), there are more than one specified resources, the specified resources being of the same type ('955, col. 7, line 12 discloses processes, systems and disks to monitor), and wherein the operations further comprise:

(d) creating a set of first objects corresponding to the specified resources, the first objects representing states of the specified resources and being maintained by the monitor ('955, col. 13, line 1, and table 5, depicting objects).

Regarding claim 17, and in view of the rejection of claim 16 above, Chen discloses a article of manufacture of claim 16 wherein the operations further comprise:

(e) updating the set of first objects upon receiving a notification of a change to at least one of the specified resources, using the monitor ('955, col. 17, line 12);; and

(f) logging information related to the change ('955, table 5, "val_change").

Regarding claim 18, and in view of the rejection of claim 17 above, Chen discloses a article of manufacture of claim 17 wherein the operations further comprising:

(g) creating a new object representing a current state of the specified resource having the change ('955, col. 17, line 12, and table 5); and

(h) comparing the new object to the corresponding first object representing a previous state of the specified resource to determine the change ('955, col. 17, line 12, and table 5, "val_change").

Regarding claim 19, and in view of the rejection of claim 13 above, Chen discloses a article of manufacture of claim 13 wherein, in operation (a), there are more than one specified resources, the specified resources being of different types ('955, col. 7, line 10), and, in operation (b), there are more than one monitors created corresponding to the different types of specified resources ('955, col. 7, line 10, "one or more instances"), and wherein the operations further comprise:

(d) creating different sets of first objects corresponding to the different types of specified resources, each of the different sets of first objects representing states of a corresponding type of specified resources and being maintained by a corresponding monitor ('955, col. 7, line 59).

Regarding claim 20, and in view of the rejection of claim 19 above, Chen discloses a

20. The article of manufacture of claim 19 wherein the operations further comprise:

(e) providing to the user a link to each of the monitors ('955, col. 7, line 65, and fig. 12a).

Regarding claim 21, and in view of the rejection of claim 13 above, Chen discloses a article of manufacture of claim 13 wherein the monitor is implemented as one of a COM object, a thread, and a process ('955, col. 7, line 12).

Regarding claim 22, and in view of the rejection of claim 13 above, Chen discloses a article of manufacture of claim 13 wherein the operations further comprise: initiating the monitor request module using a resource monitor service ('955, fig. 9, ref. 180).

Regarding claim 23, and in view of the rejection of claim 22 above, Chen discloses a article of manufacture of claim 22 wherein the operations further comprise: restarting all restartable monitors using the monitor request module ('955, fig. 9, ref. 172).

Regarding claim 25, Chen discloses a system comprising:

a processor; and

a memory coupled to the processor, the memory containing program code that, when executed by the processor, causes the processor to perform operations comprising:

(a) sending to a monitor request module a request of a user to monitor at least one specified resource ('955, col. 6, line 45, "start"); and

(b) creating at least one monitor to monitor the specified resource, using the monitor request module (955, col. 6, line 47, recording subsystem, 20), and creating at least one monitored object corresponding to the at least one specified resource, the at least one monitored object representing a state of the at least one specified resource and being maintained by the at least one monitor ('955, col. 6, line 49, recording file, and fig. 2, ref. 100).

Regarding claim 26, and in view of the rejection of claim 25 above, Chen discloses a system of claim 25 wherein the specified resource includes at least one of a

file object, a registry object, and a set of all processes that are active while the monitor is active ('955, col. 7, line 12).

Regarding claim 27, and in view of the rejection of claim 25 above, Chen discloses a system of claim 25 wherein the operations further comprise:

(c) providing to the user a link to the monitor ('955, fig. 12a, depicts several links to monitor in window).

Regarding claim 28, and in view of the rejection of claim 25 above, Chen discloses a system of claim 25 wherein, in operation (a), there are more than one specified resources, the specified resources being of the same type ('955, col. 7, line 12 discloses processes, systems and disks to monitor), and wherein the operations further comprise:

(d) creating a set of first objects corresponding to the specified resources, the first objects representing states of the specified resources and being maintained by the monitor ('955, col. 13, line 1, and table 5, depicting objects).

Regarding claim 29, and in view of the rejection of claim 28 above, Chen discloses a system of claim 28 wherein the operations further comprise:

(e) updating the set of first objects upon receiving a notification of a change to at least one of the specified resources, using the monitor ('955, col. 17, line 12);; and

(f) logging information related to the change ('955, table 5, "val_change").

Regarding claim 30, and in view of the rejection of claim 29 above, Chen discloses a system of claim 29 wherein the operations further comprising:

(g) creating a new object representing a current state of the specified resource having the change ('955, col. 17, line 12, and table 5); and

(h) comparing the new object to the corresponding first object representing a previous state of the specified resource to determine the change ('955, col. 17, line 12, and table 5, "val_change").

Regarding claim 31, and in view of the rejection of claim 25 above, Chen discloses a system of claim 25 wherein, in operation (a), there are more than one specified resources, the specified resources being of different types ('955, col. 7, line 10), and, in operation (b), there are more than one monitors created corresponding to the different types of specified resources ('955, col. 7, line 10, "one or more instances"), and wherein the operations further comprise:

(d) creating different sets of first objects corresponding to the different types of specified resources, each of the different sets of first objects representing states of a corresponding type of specified resources and being maintained by a corresponding monitor ('955, col. 7, line 59).

Regarding claim 32, and in view of the rejection of claim 31 above, Chen discloses a system of claim 31 wherein the operations further comprise:

(e) providing to the user a link to each of the monitors ('955, col. 7, line 65, and fig. 12a).

Regarding claim 33, and in view of the rejection of claim 25 above, Chen discloses a system of claim 25 wherein the monitor is implemented as one of a COM object, a thread, and a process ('955, col. 7, line 12).

Regarding claim 34, and in view of the rejection of claim 25 above, Chen discloses a system of claim 25 wherein the operations further comprise: initiating the monitor request module using a resource monitor service ('955, fig. 9, ref. 180).

Regarding claim 35, and in view of the rejection of claim 34 above, Chen discloses a system of claim 34 wherein the operations further comprise: restarting all restartable monitors using the monitor request module ('955, fig. 9, ref. 172).

Response to Arguments

Applicant's arguments filed 8-30-2007 have been fully considered but they are not persuasive.

Applicant argues that the monitors of Chen are merely windows and sub windows; however, although the invention of Chen includes windows, it also includes the software and hardware to make those windows functional, as indicated in the figures, including figure 1.

Regarding claims 1-11, 13-23, and 25-35, applicant argues that Chen does not disclose sending to a monitor request module a request of a user to monitor at least one specified resource; and (b)creating at least one monitor to monitor the specified resource, using the monitor request module, and creating at least one monitored object corresponding to the at least one specified resource, the at least one monitored object representing a state of the at least one specified resource and being maintained by the at least one monitor. However, these features, as described in the rejection above, are disclosed by Chen. Particularly, Chen, in figure 1 discloses an input to graphical user

interface 80 from a user, corresponding to a monitor request monitor. Furthermore, the monitor, "recording substem", 20 monitors the monitored resource with results representing the state of the monitored device recorded in files, 100. Although a request to start and stop recording is an example monitoring a resource. Although applicant argues that the creation of the monitor is a result of the user request, this feature is not explicitly claimed, and since the monitor exists, it has been created. Furthermore, applicant argues that console information, instrument information, value display information, value detail information and value data records do not meet the limitation; however, each of these features represents the claimed "state" of the monitored resource, thereby meeting the claim limitation.

Regarding claim 3, applicant argues that Chen does not provide a link to a monitor; however, Chen provides several links to the monitor, including "Begin Network Logging", as described by applicant. This is considered a link because it provides an exchange of information from the operator interface to the functional portions of the data collection.

Regarding claim 4, applicant argues that recording data being displayed is not the same as creating a set of first objects representing states, corresponding to the specified resources; however, recording data being displayed is a specific example of an object representing a state of the specified resource.

Regarding claim 5, applicant argues that recording value change is not the same as updating any set of objects corresponding to the specified resource; however,

recording value change requires a comparison with respect to time, thereby meeting the claim limitation of updating a value.

Regarding claim 6, applicant argues that Chen does not disclose creating a new object representing a current state, and comparing to determine the change; however, this limitation is met in the calculation of "val_change" in table 5 because a change in value is calculated.

Regarding claim 7, applicant argues that Chen does not disclose creation of an object; however, this is explicitly recited in several forms beginning at col. 7, line 59. Specifically, at col. 7, line 66, the instantiation of skeleton consoles is disclosed.

Regarding claim 8, applicant argues that Chen does not disclose providing the user a link to monitors. However, because the File menu of Chen provides access to stored data, it is considered a link to the output of the monitors, thereby meeting the claim limitation.

Regarding claim 9, applicant states that Chen does not disclose that the monitor is implemented as a process; however, a process is described at col. 7, line 12, and in figure 9.

Regarding claim 10, applicant argues that Chen does not disclose a resource monitor service; however, because the start instrument recording menu monitors a resource, it is considered a recourse monitor service. Although applicant argues that the specification describes a particular monitor, until these features are recited in the language of the claim, they are not considered limiting.

Regarding claim 11, applicant argues that Chen does not disclose restarting restartable monitors, however, this feature is disclosed in figure 9, ref. 172, where recording is started into an existing file. Because the file already exists, the previous data entries are restarted from.

Regarding applicants argument that the arguments for claims 1-11 apply to claims 13-23, and 25-35, the response similarly applies.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Cherry whose telephone number is (571) 272-2272. The examiner can normally be reached on M-F 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached on (571) 272-2269. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SJC

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